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February 5, 2018

VIA UNITED PARCEL SERVICE

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**Re: Implementation of Act 40 of 2017
Docket No. M-2017-2631527**

Dear Secretary Chiavetta:

Pursuant to the Pennsylvania Public Utility Commission's Tentative Implementation Order entered December 21, 2017 in the above-referenced proceeding, enclosed herewith for filing are the Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company. Please date stamp the extra copy and return it in the postage-prepaid envelope provided.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Tori L. Giesler

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Enclosures

c: As Per Certificate of Service
Kriss Brown, Assistant Counsel – Law Bureau
Darren Gill – Bureau of Technical Utility Services

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Act 40 of 2017

:

Docket No. M-2017-2631527

**COMMENTS OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER
COMPANY AND WEST PENN POWER COMPANY**

I. INTRODUCTION

On December 21, 2017, the Pennsylvania Public Utility Commission (“Commission”) entered a Tentative Implementation Order (“Order”) initiating a docket aimed to provide guidance with regard to how the Commission would implement and enforce the Alternative Energy Portfolio Standards (“AEPS”) Act¹ in light of amendments to that Act resulting from Act 40 of 2017 (“Act 40”), which established geographical limits on solar photovoltaic (“solar PV”) systems that may qualify to meet the solar PV requirements laid out within the AEPS Act. Specifically, the Order laid out a proposal for implementation of the various amendments to the AEPS Act, as well as sought comments regarding the proposal from interested parties to be filed no later than thirty days following publication in the Pennsylvania Bulletin. The Order was published in the Pennsylvania Bulletin on January 6, 2018.

Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”), and West Penn Power Company (“West Penn”) (collectively “the Companies”) respectfully submit the following comments in response to the Commission’s Order.

¹ 73 P.S. § 1648.1 *et seq.*

II. COMMENTS

Act 40, at Section 2804(1), amended the AEPS Act in a number of important ways. Namely, it modified the AEPS Act to require qualifying solar PV resources to meet one of the following:

- Deliver the electricity it generates directly to either a retail customer of an electric distribution company (“EDC”) or the EDC itself, provided in both instances that this EDC is operating in Pennsylvania and required to meet the AEPS Act requirements;
- Be directly connected to an electric cooperative or municipal electrical system operating within Pennsylvania; or
- Be directly connected to an electric transmission system at a point within the service territory of an EDC operating within Pennsylvania.

Act 40 further goes on to qualify, at Section 2804(2), that nothing in Section 2804 or Section 4 of the AEPS Act shall affect “any certification originating within the geographical boundaries of this commonwealth granted prior to the effective date of this section” of a solar PV generator as a qualifying alternative energy source eligible to meet the compliance requirements for solar PV shares under the AEPS Act. Also excluded from the effects of the amendments in Act 40 are the certifications of any solar PV system with an existing, binding written contract for the sale and purchase of alternative energy credits which was entered into prior to October 30, 2017, but for which certification had not been granted prior to October 30, 2017. Finally, specification is offered under Section 2804(3) of Act 40 that the eligibility provisions of Section 2804(1) are applicable to any contract – either entered into or renewed - on or after October 30, 2017.

At a high level, the Order proposes to address these amendments from an implementation standpoint as follows:

- Only the eligibility of alternative energy sources for purposes of meeting solar PV share requirements will be affected, not eligibility for meeting the Tier I non-solar PV requirements of Section 3(b)(1) of the AEPS Act (for which any solar PV source may be eligible, regardless of geography).
- Solar PV systems eligible for meeting the solar PV requirement will include systems physically connected to an EDC's customer's internal electrical system, systems which are directly interconnected to an EDC's distribution system, systems which are physically connected to a Pennsylvania electric cooperative or municipal electrical system's distribution network, or systems which are physically connected to an EDC's transmission system within the EDC's service territory.
- Those solar PV systems which received certification as eligible to meet the solar PV share requirement in Pennsylvania under the AEPS Act prior to October 30, 2017 shall be grandfathered as continuing to qualify to meet solar PV share requirements, regardless of geographic characteristics.
- Solar PV systems whose output were contracted for sale and purchase of alternative energy credits ("AECs") prior to October 30, 2017 will be eligible for certification solely for the duration of the life of the original contract term. However, no exclusion will be permitted to the geographic eligibility requirements for renewals of the original contract term or subsequent contracts between the same parties.

- In order to implement these proposals, the Commission intends to have the AEC Program Administrator modify the Pennsylvania certification numbers provided to solar PV systems accordingly to further denote their eligibility under the various categories into which they may now fall. Further, to the extent that contracts pre-dating October 30, 2017 offer a one-time exclusion to the eligibility requirements for any solar PV system, the system must submit a copy of the subject written contract, along with any additional information requested, to the AEC Program Administrator in addition to the system's application for alternative energy system qualification for eligibility determination.

Generally, the Companies support the Commission's effort to offer guidance on this topic, as it will provide clarity for all participants to the AEPS process with regard to how they are to meet the obligations of the AEPS Act under the revised eligibility rules. Further, while they do not discuss each of them in detail, the Companies support the individual proposals within the Order, and offer specific feedback with regard to several of them in the brief comments to follow.

First, clarity with regard to how the geographic eligibility will be determined, whether through connection to a customer, EDC, electric cooperative, municipal electrical, or transmission system, is helpful and should eliminate confusion when determining eligibility. However, the Commission's guidance as proposed in the Order should also recognize the fact that the transmission systems serving EDCs in Pennsylvania may not be owned by the EDCs. For instance, Mid-Atlantic Interstate Transmission LLC ("MAIT"), a subsidiary of the Companies, operates solely within the geographic boundaries of the Commonwealth. However, it is not owned by an EDC. The Commission's proposal should be revised to clarify that a solar PV system interconnected with a transmission system which in turn is located within a Pennsylvania EDC's

territory would meet the eligibility requirements. Absent this clarification, it could be construed that, because Met-Ed, Penelec and Penn Power do not own transmission systems any longer, any solar PV system interconnected at the transmission level but located within one of their territories may not meet the eligibility criteria of the act – a consequence which the Companies do not believe the General Assembly or the Commission intend. Similarly, it is worth noting that Penelec’s distribution system extends into a very small portion of southern New York State. As such, it is possible that a solar PV system either connected to a Penelec customer’s own electrical system, or to Penelec’s own distribution system, but physically located in New York State could raise questions of eligibility for a certificate under Pennsylvania law. The Companies believe that the plain language of Act 40 would permit such systems to qualify as eligible for certification in Pennsylvania, but seek clarity as to the Commission’s view on this point.

Second, while there has traditionally been an oversupply of solar PV RECs available to satisfy Tier I solar requirements and resultant low costs to customers for those RECs, the geographical restrictions imposed by Act 40 are expected to change that. To illustrate, prior to the enactment of Act 40, energy year 2018 solar PV RECs could be acquired for \$5.00 per REC and after \$10.00 per REC on the open market. At the time of this filing, they are already doubled in price, now trading at \$10.00 per REC. As of the time of this filing, there appear to be enough solar generators available to meet the current need with banked RECS. However, as the banked RECs are used up, there will likely not be enough solar generation to keep up with the increasing volume of compliance requirements, which in turn will cause prices to continue to climb. Currently, approximately 324 megawatts (“MW”) of solar generation exist in Pennsylvania, whereas the estimated generation need is at 433 MW for energy year 2018. This increases estimate to 559 MW in energy year 2020, thus requiring an additional 352 MW of solar generation to be built and put

into service prior to energy year 2020, a fact that is expected to drive the price of in-state solar PV RECs up substantially. Act 40's mandate that solar PV RECs used to satisfy AEPS compliance must be generated from within the state may help create solar-related jobs in Pennsylvania over the long run, although a number of factors apart from the pricing increase expected to result from the shortfall in availability add additional uncertainty with regard to how much solar capacity will be built in-state and the timing of such in-state solar additions to fill those gaps identified above. First, the federal government recently enacted 30% solar tariffs on imported solar components, which could significantly increase solar panel and related costs to a point that slows the build-out of domestic solar capacity additions. Second, rising interest rates and inflation could hamper financial incentives to add solar. Finally, how quickly new market entrants establish themselves in the Pennsylvania solar market is also an open question.

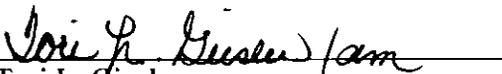
To that point, the Companies strongly support several of the Commission's interpretations and implementation proposals as mitigating the impact expected to result to customers. Specifically, grandfathering out-of-state solar PV systems already certified for compliance will help keep the compliance cost to customers low as compared to neighboring states that have closed their borders without such provision in general, even under existing obligations. Also, allowing banked solar PV RECs generated prior to October 30, 2017 to satisfy Tier I solar requirements will help reduce the pricing impact to customers in the short term in order to allow time for additional generation to develop. Further, the grandfathering of applications submitted prior to October 30, 2017, which are finite in number and were submitted at a point where solar PV systems would have been acting in reliance upon the laws in effect at the time of the application, will further minimize the cost of compliance for customers.

III. CONCLUSION

Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company appreciate the opportunity to provide comments on this important topic. The Companies share the Commission's interest in establishing clear guidance in implementing the recent amendments to the AEPS Act so that all market participants understand compliance obligations moving forward.

Respectfully submitted,

Dated: February 5, 2018


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Implementation of Act 40 of 2017

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by first class mail, as follows:

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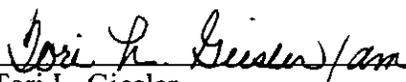
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